

EXHIBIT 6

MICHAEL J. CHILDS

6/4/2015

1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROBERT SALINAS,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.:
)	4:14-cv-3153
KROGER TEXAS, L.P.,)	
)	
Defendant.)	

ORAL DEPOSITION OF
MICHAEL J. CHILDS
JUNE 4, 2015

ORAL DEPOSITION of MICHAEL J. CHILDS, produced as a witness at the instance of the PLAINTIFF, and duly sworn, was taken in the above-styled and numbered cause on JUNE 4, 2015, from 10:02 a.m. to 4:59 p.m., before Stephanie M. Harper, RPR, CSR in and for the State of Texas, recorded by machine shorthand, at the offices of COZEN O'CONNOR, P.C., 1221 McKinney Street, Suite 2900, Houston, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto; that the deposition shall be read and signed before any notary public.

JOB NO. 186050

US LEGAL SUPPORT
713.653.7100

MICHAEL J. CHILDS

6/4/2015

36 (Pages 141 to 144)

<p style="text-align: right;">141</p> <p>1 he filed.</p> <p>2 Q. You mentioned a store steward?</p> <p>3 A. Right.</p> <p>4 Q. Who has that been at Store No. 10?</p> <p>5 A. It was Margie Rogers. Margie Rogers, who just</p> <p>6 retired recently. And then Mitch Anderson is still</p> <p>7 there. He's also a steward.</p> <p>8 Q. And the other individual you had mentioned --</p> <p>9 not the store steward, but the --</p> <p>10 A. Business agent?</p> <p>11 Q. Business agent. Thank you.</p> <p>12 A. That was Walter Bailey. He has also retired,</p> <p>13 though. At the time -- at that time, it was Walter</p> <p>14 Bailey. They've got a different business agent today.</p> <p>15 It's Mario -- I can't think of his last name, but</p> <p>16 Mario.</p> <p>17 Q. When did Walter Bailey leave or retire?</p> <p>18 A. Guessing, two years ago.</p> <p>19 Q. Fair to say he was out there during the</p> <p>20 2011/2012 time frame?</p> <p>21 A. That would be correct.</p> <p>22 Q. Going back to this grievance process, to your</p> <p>23 knowledge, can an employee grieve of sexual harassment</p> <p>24 in the workplace to their union?</p> <p>25 MR. BARRON: Objection, foundation.</p>	<p style="text-align: right;">143</p> <p>1 A. Correct.</p> <p>2 Q. Did Walter Bailey ever communicate to you any</p> <p>3 concerns that Robert Salinas has brought to his</p> <p>4 attention?</p> <p>5 A. Hard to remember. I mean, I -- there might</p> <p>6 have been a scheduling issue that Robert -- there was</p> <p>7 some problem with the schedule. I'm sure. Might have,</p> <p>8 but I can't recall specifically what they were.</p> <p>9 Q. Okay. As you sit here today, do you ever</p> <p>10 recall Walter telling you that Robert had complained or</p> <p>11 filed a grievance of sexual harassment by David</p> <p>12 Castillo?</p> <p>13 A. No.</p> <p>14 Q. Other than the scheduling issue, do you</p> <p>15 remember Walter bringing to your attention any other</p> <p>16 grievances or complaints that Robert had filed with the</p> <p>17 union?</p> <p>18 A. Not that I can recall right now.</p> <p>19 Q. Let's talk about what happened on April 6th,</p> <p>20 2012. As I understand it, both David Castillo and</p> <p>21 Robert Salinas were working at the produce department</p> <p>22 on that morning, is that correct?</p> <p>23 MR. BARRON: Objection, foundation.</p> <p>24 A. That's what I understand, but I'm not sure.</p> <p>25 But that's what I've been told.</p>
<p style="text-align: right;">142</p> <p>1 A. I don't know.</p> <p>2 Q. (BY MR. CAYCEDO) To your knowledge, has an</p> <p>3 employee at Kroger, associate or employee, ever filed a</p> <p>4 grievance related to -- to you personally, to your</p> <p>5 management or anything along those lines?</p> <p>6 MR. BARRON: Objection, vague.</p> <p>7 A. Say that again?</p> <p>8 Q. (BY MR. CAYCEDO) Sure. Are you aware if</p> <p>9 the -- an employee has ever filed a grievance through</p> <p>10 the unit related to you, to your management?</p> <p>11 A. Against the store or the store in general. I</p> <p>12 don't know if it was directed towards me individually.</p> <p>13 Q. All right.</p> <p>14 A. Not to me, I don't believe it was addressed</p> <p>15 to. It was addressed to the store --</p> <p>16 Q. Okay.</p> <p>17 A. -- I believe anyway.</p> <p>18 Q. You're not aware of being sub- -- the subject</p> <p>19 of any grievance since you've been at Store No. 10, are</p> <p>20 you?</p> <p>21 A. Me personally?</p> <p>22 Q. Yes, sir.</p> <p>23 A. I don't believe so.</p> <p>24 Q. Walter -- I think you said it was Bailey, is</p> <p>25 that correct?</p>	<p style="text-align: right;">144</p> <p>1 Q. (BY MR. CAYCEDO) Okay. Through your</p> <p>2 investigation, have you done -- have you looked at the</p> <p>3 work schedules for that particular morning to see who</p> <p>4 was there on April 6th, 2012?</p> <p>5 A. I don't know. I can't remember if I did.</p> <p>6 Q. If the work schedule for that particular day</p> <p>7 showed that both David Castillo and -- and Robert</p> <p>8 Salinas were working in the morning of April 6th, 2012,</p> <p>9 would you have any reason to disagree with that?</p> <p>10 A. I would probably want to verify they did work</p> <p>11 their schedule, but I would have no reason to disagree</p> <p>12 with it, that's correct.</p> <p>13 Q. Okay. When were you first made aware of the</p> <p>14 incident between David Castillo and Robert Salinas, of</p> <p>15 David holding the knife to Robert's throat?</p> <p>16 A. I believe it was the next day, which was, I</p> <p>17 guess, the 7th, next day.</p> <p>18 Q. And how were you first made aware of that</p> <p>19 incident?</p> <p>20 A. Police officer arrived at my store and came</p> <p>21 upstairs and brought it to my attention.</p> <p>22 Q. Do you recall which officer that was?</p> <p>23 A. I believe his name is Officer Delgado.</p> <p>24 Q. Do you recall anything about that conversation</p> <p>25 you had with Mr. Delgado?</p>

MICHAEL J. CHILDS

6/4/2015

37 (Pages 145 to 148)

145	147
<p>1 A. Not specifically. I don't remember the 2 conversation. I know he brought it to my attention, 3 and I know I called Tony to come upstairs and discuss 4 it with me, too, because I had not heard anything about 5 it prior to that. 6 Q What exactly was it that Officer Delgado 7 brought to your attention? 8 A. That -- I believe that Robert had filed a 9 report or something with them alleging, I guess, that 10 David Castillo had grabbed him around the throat and 11 put a knife to his throat. 12 Q Have you ever seen the report that the 13 Rosenberg Police Department did for that incident? 14 A. No. I believe my attorney mentioned a little 15 bit of it to me. But I -- 16 Q And again -- 17 MR BARRON Don't talk about that 18 Object attorney-client privilege 19 Q (BY MR. CAYCEDO) -- I don't want to get into 20 discussions you've had with your attorney 21 A. Okay. Then outside of my attorney, no. 22 Q Let me just hand you what was marked as 23 Exhibit 9 And I'll give you an opportunity to look 24 that over. 25 MR CAYCEDO Sorry, David I didn't</p>	<p>1 memory at all as to whether that conversation took 2 place? 3 A. No, it really does not. 4 Q It says. "Mr Childs further explained 5 Mr Salinas alleged Mr Castillo had pinched him on the 6 buttocks." 7 Did I read that correctly? 8 A. Yes, you did. 9 Q Okay You still don't recall having that 10 conversation with the officer? 11 A. I really do not. 12 Q It states "Mr Childs could not explain how 13 and if Mr Castillo was disciplined, but could advised 14 the two were separated and not scheduled to work 15 together" 16 Did I read that correctly? 17 A. Yes, you did. 18 Q And you don't recall having that conversation? 19 A. I wish I did, but I do not. 20 Q And at some point in time, you stated that -- 21 well, let me ask you this: What all do you recall 22 telling the officer when they arrived that morning? 23 A. And I don't remember the conversation, what we 24 really -- really had. I know I called Tony up there, 25 and he told us about the incident, but I don't remember</p>
146	148
<p>1 bring any extra copies. 2 MR. BARRON: If it's something I need, I 3 can always go run and get it. 4 MR. CAYCEDO: Fair enough. 5 MR. BARRON: Or I can peek over his 6 shoulder, either way. 7 Q (BY MR. CAYCEDO) Okay. On Page 3 of 10, do 8 you see how the exhibit here is numbered towards the 9 top right-hand corner? 10 A. Got it. 11 Q Page 3 of 10, if you go to that bottom full 12 paragraph there, under "Officer Investigation"; do you 13 see that? 14 A. I do. 15 Q It states: "I traveled to Kroger and spoke 16 with manager Michael Childs (DOB: 7/25/51)"; is that 17 your date of birth? 18 A. That is correct. 19 Q "...who advised he could" -- "he could recall 20 an incident where Mr. Salinas accused an employee, 21 David Castillo...of harassing him while at work." 22 Do you recall having that conversation 23 with the investigating officer? 24 A. Honestly, I do not. 25 Q And this document doesn't help refresh your</p>	<p>1 the conversation whatsoever, and I wish I did. 2 Q Okay Well, at some point, you called Tony? 3 A. Yes, I did. I remember that he came up there. 4 Q You called him over the PA and -- 5 A. I would assume, yes. 6 Q -- he called you, and you said, "Why don't you 7 come up to the office here," something along those 8 lines? 9 A. Something along those lines. 10 Q And what did Tony say when he arrived? 11 A. I don't remember that either, honestly. I 12 mean, I just don't remember that whole conversation 13 there. I do remember the police officer telling me not 14 to do anything at that time. I remember don't do my 15 own investigation, let them handle it. But I don't 16 remember what I told the officer or Tony told the 17 officer. I really don't. I think if anything, I was 18 surprised about the whole thing. You know, somebody 19 put a knife to somebody's throat, but I don't remember 20 what the discussion was. I honestly do not. 21 Q Okay Do you remember how long that 22 conversation took? 23 A. I'm guessing, but I'd guess, you know, ten 24 minutes. But I don't know. I'm guessing. 25 Q All right And you said you've seen the</p>

MICHAEL J. CHILDS

6/4/2015

39 (Pages 153 to 156)

<p style="text-align: right;">153</p> <p>1 to I guess the next thing that happened after you had</p> <p>2 the discussion with Athar and Martha?</p> <p>3 A. Yes, it did.</p> <p>4 Q Okay So it looks like that discussion you</p> <p>5 mentioned a moment ago happened on April 9th, is that</p> <p>6 correct?</p> <p>7 A. Yeah, that's correct.</p> <p>8 Q Okay So what was the next thing that took</p> <p>9 place after that discussion with --</p> <p>10 A. Well, sometime that day --</p> <p>11 Q -- HR?</p> <p>12 A. -- probably sometime the same day, I tried to</p> <p>13 call the Rosenberg Police Department, which -- to find</p> <p>14 out what they -- what they were going to do or</p> <p>15 something to investigate the case. They gave me a case</p> <p>16 number, and the detective who was assigned to the case.</p> <p>17 I then was able to talk to Detective</p> <p>18 Montford about the case, who asked me for the schedule</p> <p>19 of three associates. He said he'd be in contact -- it</p> <p>20 would be in contact with them for interviews. So that</p> <p>21 would have been on the 9th.</p> <p>22 Q All right</p> <p>23 A. So a couple of days go by, and nothing's</p> <p>24 happened. And I think several times I said I called</p> <p>25 and left a -- Montford an update -- update. And I</p>	<p style="text-align: right;">155</p> <p>1 A. Time.</p> <p>2 Q Hours?</p> <p>3 A. Right.</p> <p>4 Q But the work schedules for that particular</p> <p>5 time frame would reflect whatever they were working?</p> <p>6 A. I would -- the schedules, maybe not the</p> <p>7 schedules. We might have changed the schedules. The</p> <p>8 actual time sheets, I -- to the best of my</p> <p>9 recollection, we made some adjustments at least to</p> <p>10 David's schedule so he wasn't working to the time that</p> <p>11 Robert was scheduled. Now, the schedules are made the</p> <p>12 week before. So if we made those adjustments, they</p> <p>13 might not be reflected on the actual schedule that was</p> <p>14 written.</p> <p>15 Q Okay Do you know if there would be any</p> <p>16 document that would show when they were working, Robert</p> <p>17 and David Castillo, between the dates of April 7th and</p> <p>18 April 12th?</p> <p>19 A. I mean, if they could go back that far on the</p> <p>20 timecards and look, I guess you could see.</p> <p>21 Q Okay So then you had a conversation with the</p> <p>22 Detective Montford on April 12th, is that correct?</p> <p>23 A. That is correct.</p> <p>24 Q And at that time, that's when he told you it</p> <p>25 was okay to go ahead and start your investigation?</p>
<p style="text-align: right;">154</p> <p>1 think I left several messages, actually. I called</p> <p>2 trying to say, "When are we going to do something?</p> <p>3 When are we going to do something, because we need to</p> <p>4 move on with this. What was going to happen?"</p> <p>5 Finally -- you want me to move on?</p> <p>6 Q Well, let me ask During those days, the 8th,</p> <p>7 the 9th, the 10th, and the 11th, to your knowledge was</p> <p>8 David Castillo still working in the produce department</p> <p>9 on the -- was he scheduled to work those days?</p> <p>10 A. Yes, but we made some adjustments to the</p> <p>11 schedule and separated them, so they weren't working</p> <p>12 together.</p> <p>13 Q Okay But he was still on the premises?</p> <p>14 A. He was still on the premises.</p> <p>15 Q Do you know if he was still on the premises</p> <p>16 around the same time that Robert Salinas was?</p> <p>17 A. To the best of my recollection, we -- we</p> <p>18 separated them so they at least weren't working</p> <p>19 together. So I don't believe that they were together,</p> <p>20 but to my -- I don't believe they were.</p> <p>21 Q Okay When you say they weren't working</p> <p>22 together, do you mean in areas of the store or same</p> <p>23 shifts?</p> <p>24 A. Schedules.</p> <p>25 Q Schedules</p>	<p style="text-align: right;">156</p> <p>1 A. Right. He said he would be attending a</p> <p>2 funeral or something out of town, and he would be in to</p> <p>3 talk to Andres, but we could go ahead and begin our own</p> <p>4 investigation.</p> <p>5 Q Okay And what -- how did you -- what did you</p> <p>6 do then?</p> <p>7 A. Well then, I immediately started trying to</p> <p>8 gather statements. And that's when I asked Robert to</p> <p>9 get a statement. Either I asked him, or I had</p> <p>10 Ms. Mendoza ask him to get a statement. I'm not sure</p> <p>11 if we -- whether we both did or what. But I know I</p> <p>12 asked him, and I think she followed up. Possibly both</p> <p>13 did or one of us did ask him to get a written</p> <p>14 statement. As well as with -- yeah, okay.</p> <p>15 Q Other than you and Miss --</p> <p>16 A. Mendoza?</p> <p>17 Q -- Mendoza Okay Mendoza Other than you</p> <p>18 and Ms. Mendoza, anybody else at Kroger involved in</p> <p>19 that investigation?</p> <p>20 MR BARRON. Objection, vague as to</p> <p>21 "involved"</p> <p>22 A. Yeah, what do you mean by "involved"? I mean,</p> <p>23 I -- I -- you know.</p> <p>24 Q (BY MR CAYCEDO) You're good at picking up on</p> <p>25 the objections</p>

MICHAEL J. CHILDS

6/4/2015

42 (Pages 165 to 168)

<p style="text-align: right;">165</p> <p>1 can't really say that, because it would depend.</p> <p>2 Q (BY MR. CAYCEDO) If an employee, one of your</p> <p>3 associates, came to a department manager and complained</p> <p>4 of being grabbed on the rear end, and saying that it</p> <p>5 was unwelcome or unwanted, do you believe that's</p> <p>6 something your department manager should document?</p> <p>7 A. I think it should be investigated.</p> <p>8 Q And as part of that investigation, do you</p> <p>9 believe there should be some documentation concerning</p> <p>10 that complaint?</p> <p>11 A. I guess that would kind of depend.</p> <p>12 Q And I know you don't recall as you sit here</p> <p>13 today, when you spoke to Tony, if you did I know you</p> <p>14 said that you assume that you did Do you remember</p> <p>15 having any conversations with him about what he may</p> <p>16 have witnessed or observed before April 6th, 2012?</p> <p>17 A. I know when we were -- we had talked about</p> <p>18 it -- especially -- I mean, when we talked about it,</p> <p>19 whenever it was back in those days and all, I know he</p> <p>20 witnessed some of the -- the -- the horseplay that was</p> <p>21 going on back there, if you want to call it that, in</p> <p>22 the back room, which was probably not appropriate. But</p> <p>23 of the other issues, the sexual harassment, he told me</p> <p>24 he never witnessed any of that.</p> <p>25 Q Okay You say "horseplay" Who -- who came</p>	<p style="text-align: right;">167</p> <p>1 deposition. Do you recognize that document?</p> <p>2 A. Yes.</p> <p>3 Q Have you ever seen that document before today?</p> <p>4 A. Yes.</p> <p>5 Q When was the last time you've seen this</p> <p>6 document?</p> <p>7 A. About a week ago.</p> <p>8 Q Is this among the documents you reviewed?</p> <p>9 A. That is -- yes.</p> <p>10 MR. BARRON: Let him finish just for the</p> <p>11 record.</p> <p>12 MR. CAYCEDO: That's all right. It's</p> <p>13 natural.</p> <p>14 MR. BARRON: You're doing really good,</p> <p>15 though.</p> <p>16 Q. (BY MR. CAYCEDO) Do you know whose</p> <p>17 handwriting this is on Exhibit 14?</p> <p>18 A. I can guess.</p> <p>19 Q. All right.</p> <p>20 A. It was not mine.</p> <p>21 Q. Fair enough.</p> <p>22 Do you have a -- what's your best guess, was</p> <p>23 it William's or Athar's?</p> <p>24 A. I think it's Athar's.</p> <p>25 Q. Okay. Was there anyone else involved in that</p>
<p style="text-align: right;">166</p> <p>1 up with that word? I mean, is that something that you</p> <p>2 identified it as being, as horseplay, or Tony just said</p> <p>3 it was horseplay, or where did you first hear the</p> <p>4 phrase that what happened between Robert Salinas and</p> <p>5 David Castillo was, quote/unquote, horseplay?</p> <p>6 A. I don't know. I don't know if it came from</p> <p>7 me, came from Tony, I don't know. I don't know. I</p> <p>8 can't answer that.</p> <p>9 Q Okay Did you ever sit down and speak with</p> <p>10 Robert about what was going on between he and David</p> <p>11 Castillo after the incident?</p> <p>12 A. Actually, when we -- the first time we really</p> <p>13 sat down and spoke about it was in the presence of</p> <p>14 William Yelderman and Athar to the best of my -- when</p> <p>15 we sat down.</p> <p>16 Q At some point in time, you had a conversation</p> <p>17 or an interview with Robert with William Yelderman and</p> <p>18 Athar?</p> <p>19 A. That's correct.</p> <p>20 Q Do you recall when that conversation took</p> <p>21 place?</p> <p>22 A. I think it's on the timeline. Oh, I've got it</p> <p>23 right here. Never mind. It was on the 19th.</p> <p>24 Q Okay And let me show you what was</p> <p>25 previously made as Exhibit No. 14 to Tony Medina's</p>	<p style="text-align: right;">168</p> <p>1 meeting besides you, Athar, William, and Robert?</p> <p>2 A. To the best of my recollection, it was just</p> <p>3 the four of us.</p> <p>4 Q. All right. Who was taking the lead in that</p> <p>5 interview in terms of asking the questions?</p> <p>6 A. The best I can remember, it was William.</p> <p>7 Q. Did each of you take a role in asking</p> <p>8 questions of -- of Mr. Salinas during that meeting?</p> <p>9 A. I don't really recall.</p> <p>10 Q. To your knowledge, did William have any notes</p> <p>11 that he was referring to during the meeting, or was he</p> <p>12 using any kind of scripted questions, or anything like</p> <p>13 that that you recall?</p> <p>14 A. I don't recall.</p> <p>15 Q. Did you personally take any notes during that</p> <p>16 meeting?</p> <p>17 A. No, I did not.</p> <p>18 Q. Do you know if William did?</p> <p>19 A. I don't know.</p> <p>20 Q. Second, I guess -- or the first full</p> <p>21 paragraph, there it says "I work hard with the guys.</p> <p>22 They play around. People call me gay"...</p> <p>23 Do you remember Robert making that statement</p> <p>24 during the interview?</p> <p>25 A. Vaguely.</p>

MICHAEL J. CHILDS

6/4/2015

46 (Pages 181 to 184)

<p style="text-align: right;">181</p> <p>1 him.</p> <p>2 So the police officer walks in to talk to</p> <p>3 him. They had a brief discussion. I wasn't in that</p> <p>4 discussion. And then they left. And he told David to</p> <p>5 meet him down at the police station.</p> <p>6 Didn't know what was going on. A little</p> <p>7 later, the police officer came back and told me that</p> <p>8 David had admitted to it. I don't remember any of the</p> <p>9 details of what he admitted to. I might have asked</p> <p>10 him. I -- I just don't recall what he admitted to. If</p> <p>11 he told me at all, I -- I don't recall.</p> <p>12 After that, really don't know what</p> <p>13 happened. I believe Robert told me some things, that</p> <p>14 he might have been in jail or something, too. But most</p> <p>15 of that came from that; it came from Robert telling me</p> <p>16 what he knew about it.</p> <p>17 Q. Okay. Any conversations you had with David</p> <p>18 Castillo after that meeting where the police officer</p> <p>19 showed up to the store?</p> <p>20 A. I don't believe I ever talked to him since,</p> <p>21 that I can recall.</p> <p>22 Q. Do you have any idea as to Mr. Castillo's</p> <p>23 whereabouts today, have you ever seen him around town</p> <p>24 or...</p> <p>25 A. No, I heard at one point from somewhere that</p>	<p style="text-align: right;">183</p> <p>1 A. I think it was a little of both.</p> <p>2 Q. All right. His payroll records, would those</p> <p>3 reflect whether he was being paid during that period of</p> <p>4 time, to your knowledge?</p> <p>5 A. It probably would. You mean while he was on</p> <p>6 vacation or not working or whatever?</p> <p>7 Q. Yes.</p> <p>8 A. He was only working a couple of days a week at</p> <p>9 that time, anyway. So it wasn't -- he had some</p> <p>10 problems with diabetes or something, so he was limited</p> <p>11 on how much he would work.</p> <p>12 Q. And as you sit here today, are you certain</p> <p>13 that he was suspended without pay pending advisement?</p> <p>14 A. The only thing I would say is if the vacation</p> <p>15 went ahead and went through, he might have got paid</p> <p>16 vacation. I cannot tell you for 100 percent sure where</p> <p>17 the vacation fell, I mean. But after that point,</p> <p>18 unless some of that vacation was still being paid, and</p> <p>19 I'm not sure when it was processed, I cannot tell you</p> <p>20 for sure. I don't -- that was not the intent to have</p> <p>21 him paid, though.</p> <p>22 Q. And do you remember when that conversation was</p> <p>23 that you had with David Castillo?</p> <p>24 MR. BARRON: When you say "that</p> <p>25 conversation," which one are you talking about?</p>
<p style="text-align: right;">182</p> <p>1 he was in Dallas. And somebody else said he's back in</p> <p>2 the Rosenberg area, but I have no idea.</p> <p>3 Q. He hasn't -- you haven't seen him or observed</p> <p>4 him back out at the store since?</p> <p>5 A. No, I have not.</p> <p>6 Q. All right. You mentioned you were putting him</p> <p>7 on suspension pending an investigation.</p> <p>8 A. Or pending advisement.</p> <p>9 Q. Pending advisement.</p> <p>10 What -- what does that mean?</p> <p>11 A. Probably advisement to see if we were going to</p> <p>12 terminate him.</p> <p>13 Q. All right. Now, is that a suspension without</p> <p>14 pay?</p> <p>15 A. Absolutely.</p> <p>16 Q. All right. Your notes say in the chronology</p> <p>17 here under April 12th, you said: "David placed on</p> <p>18 vacation next week."</p> <p>19 A. That was when we were keeping them separated</p> <p>20 prior to the police officer or whatever. So it was</p> <p>21 prior to that. It was just a way to keep them</p> <p>22 separated.</p> <p>23 Q. All right. So did you place him on vacation</p> <p>24 to keep them separated, or did you put them on separate</p> <p>25 shifts or -- I'm just trying to make sure I understand</p>	<p style="text-align: right;">184</p> <p>1 Q. (BY MR. CAYCEDO) The one where the officer</p> <p>2 showed up and said that they were going to go down to</p> <p>3 the station and --</p> <p>4 A. That was on the 19th.</p> <p>5 Q. On the 19th?</p> <p>6 Did you have Mr. Castillo, I guess, fill</p> <p>7 out a resignation form at that time?</p> <p>8 A. Yes.</p> <p>9 Q. I'm not going to hold you to an exact number,</p> <p>10 and I'm sure you've had multiple conversations with</p> <p>11 Robert since the incident; is that fair?</p> <p>12 A. That's fair.</p> <p>13 Q. Okay. Do you know roughly how many</p> <p>14 conversations you had afterwards regarding the</p> <p>15 incident, the April 12th, 2000- -- or excuse me, the</p> <p>16 April 6th, 2012, incident?</p> <p>17 A. Oh, it was a lot of them. I mean, Robert</p> <p>18 would tell me a lot of times that he was -- he was</p> <p>19 scared. He thought somebody might be driving by his</p> <p>20 house, what should he do. I mean, it was -- I don't</p> <p>21 want to say it was a daily thing. But it was quite</p> <p>22 often for a while after that incident we would talk.</p> <p>23 So I can't even begin to put a number on that.</p> <p>24 Q. Fair enough.</p> <p>25 Do you remember if at any point in time</p>

MICHAEL J. CHILDS

6/4/2015

53 (Pages 209 to 212)

<p style="text-align: right;">209</p> <p>1 Q Okay Advisement of what?</p> <p>2 A. Advisement from human resources to terminate</p> <p>3 him.</p> <p>4 Q Okay Had -- to your knowledge, had Kroger</p> <p>5 made the decision whether or not to terminate</p> <p>6 Mr. Castillo at the point where he was put on</p> <p>7 suspension pending advisability of discharge?</p> <p>8 A. That was the plan. After we had the -- after</p> <p>9 we had the conversations that day, it was decided that</p> <p>10 we were going to terminate him -- yeah, to terminate</p> <p>11 him.</p> <p>12 Q Okay And the first step -- again, the first</p> <p>13 step under Kroger policy to a termination is what?</p> <p>14 A. To put him on suspension pending advisement</p> <p>15 for termination.</p> <p>16 Q Okay</p> <p>17 A. And actually, you know, David asked me at that</p> <p>18 time what it meant. I told him -- or asked me what was</p> <p>19 going to happen. I said, "Well, I'm pretty sure you're</p> <p>20 getting ready to be terminated."</p> <p>21 Q Okay</p> <p>22 A. And that's when he asked me if he could</p> <p>23 resign.</p> <p>24 Q All right Did you take any other actions</p> <p>25 with respect to limiting Mr. Castillo's ability to come</p>	<p style="text-align: right;">211</p> <p>1 THE WITNESS Okay</p> <p>2 FURTHER EXAMINATION</p> <p>3 BY MR. CAYCEDO</p> <p>4 Q How many suspensions pending advisement have</p> <p>5 you issued since you've been a store manager at Kroger?</p> <p>6 A. I have no idea.</p> <p>7 Q Okay When you issue a suspension pending</p> <p>8 advisement, is that something you typically document?</p> <p>9 A. Typically. I can't say always.</p> <p>10 Q Did you ever document David Castillo's</p> <p>11 suspension pending advisement?</p> <p>12 A. I might have put it in that timeline possibly.</p> <p>13 I don't know. I'd have to see that again, if I put</p> <p>14 that -- I actually wrote that in there or not.</p> <p>15 Q Sure. You can take a look at the timeline</p> <p>16 MR. BARRON I believe it was 16</p> <p>17 MR. CAYCEDO Somewhere around there,</p> <p>18 yeah</p> <p>19 Q (BY MR. CAYCEDO) There you go There you go</p> <p>20 I'll hand you Exhibit 16 That's your chronology there</p> <p>21 or timeline I'll give you an opportunity to look that</p> <p>22 over</p> <p>23 A. I told David he would be suspended --</p> <p>24 suspended pending advisement for discharge. I also</p> <p>25 gave him the option to resign, which he did. Yeah, I</p>
<p style="text-align: right;">210</p> <p>1 back in the store?</p> <p>2 A. Yeah, I told the police officer, "Put a</p> <p>3 criminal trespass on him."</p> <p>4 Q. What does that mean?</p> <p>5 A. When they walked out, he cannot legally come</p> <p>6 back in the store.</p> <p>7 Q. Okay. And if he did, what -- what would</p> <p>8 happen?</p> <p>9 A. He could be arrested immediately.</p> <p>10 Q. All right.</p> <p>11 A. And I think I told Robert that, too, at the</p> <p>12 time, too, because I know that was a concern. And I --</p> <p>13 you know, we didn't want him in the store.</p> <p>14 Q. To your knowledge, is there anything else you</p> <p>15 could have done to keep Castillo out of the store,</p> <p>16 other than the steps you took?</p> <p>17 A. Not that I'm aware of.</p> <p>18 Q. One last question: Have you observed anything</p> <p>19 with respect to Robert Salinas writing during the</p> <p>20 deposition today?</p> <p>21 A. He's been taking some notes.</p> <p>22 Q. Okay.</p> <p>23 MR. BARRON: Pass the witness</p> <p>24 MR. CAYCEDO: Okay. Brief follow-up.</p> <p>25 Mr. Childs.</p>	<p style="text-align: right;">212</p> <p>1 did.</p> <p>2 Q. Aside from making a note in chronology or</p> <p>3 making a note, when you've done suspensions pending</p> <p>4 advisement in the past, is there a form that you can</p> <p>5 fill out within the world of Kroger?</p> <p>6 A. I mean, you could actually put it on a CA. I</p> <p>7 guess you could put it on a CA what you did. But</p> <p>8 that's the only form I know of.</p> <p>9 Q. Have you done that in the past, documented a</p> <p>10 suspension pending advisement on a CA?</p> <p>11 A. I can't recall.</p> <p>12 Q. All right. You didn't do that here --</p> <p>13 A. No, I did not.</p> <p>14 Q. -- with David Castillo?</p> <p>15 A. No.</p> <p>16 Q. Okay. And you said that decision was made</p> <p>17 to -- that in fact, that's what y'all were going to do,</p> <p>18 was ultimately terminate Mr. Castillo, correct?</p> <p>19 A. That is correct.</p> <p>20 Q. And why didn't you just terminate</p> <p>21 Mr. Castillo, rather than giving him the option to</p> <p>22 resign?</p> <p>23 A. Well, in Krogerland, we always give</p> <p>24 somebody -- tell somebody they can be suspended.</p> <p>25 That's the way we do it pending the advisement.</p>

MICHAEL J. CHILDS

6/4/2015

220

1 MR. FRANCISCO CAYCEDO - 03:56

MR. JOSHUA ESTES - 00:05

2 MR. DAVID L. BARRON - 00:04

MR. BROCK C. AKERS - 00:00

3 I further certify that I am neither counsel
4 for, related to, nor employed by any of the parties or
5 attorneys in the action in which this proceeding was
6 taken, and further that I am not financially or
7 otherwise interested in the outcome of the action.

8 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on
9 this, the 13TH day of JUNE, 2015.

10

11

12

13





STEPHANIE M. HARPER, CSR

14

Certification No.: 7433

Expiration Date: 12-31-16

15

16

U.S. Legal Support, Inc.

17 Firm Registration No. 122

363 North Sam Houston Parkway East

18 Suite 1200

Houston, Texas 77060

19 713/653-7100

20

21

22

23

24

25 JOB NO. 186050 [MICHAEL J. CHILDS]

US LEGAL SUPPORT

713.653.7100